

अण्डमान तथा
Andaman And



निकोबार राजपत्र
Nicobar Gazette

असाधारण

EXTRAORDINARY

प्राधिकार से प्रकाशित

Published by Authority

सं. 54, पोर्ट ब्लेयर, बुधवार, 15 अप्रैल, 2015

No. 54, Port Blair, Wednesday, April 15, 2015

अण्डमान तथा निकोबार प्रशासन
ANDAMAN AND NICOBAR ADMINISTRATION
सचिवालय/SECRETARIAT

अधिसूचना

NOTIFICATION

Port Blair, dated the 15th April, 2015

No. 51 /2015/ F.No.3-505/2012-Labour.— In pursuance of Sub-Section (1) of Section 17 of the Industrial Disputes Act, 1947 (Act No.14 of 1947) read with Notification No.LR-1 (59)/55 dated 13th December, 1955 of the Govt. of India, Ministry of Labour and A&N Admn. Notification No. 144/2008/F.No.17-2/2007-Labour dated 7/10/2008, the Secretary (Lab.), Andaman and Nicobar Administration, hereby orders for publishing the following Award given by the Labour Court, Andaman and Nicobar Islands, Port Blair against the reference made to the Industrial Tribunal for adjudication vide Administration's Notification No .192 /2012/ F. No.3-505 /2012 - Labour dated 24/08/2012 in the matter of an Industrial Dispute between the Andaman & Nicobar Govt. Employees and Workers Federation, Port Blair and the grant of Temporary status to 2 DRM engaged by the Deputy Conservator of Forests Working Plan Division, Forest Department, Port Blair over alleged termination of services.

IN THE COURT OF THE PRESIDING OFFICER
LABOUR COURT

ANDAMAN AND NICOBAR ISLANDS, PORT BLAIR

I.D. CASE No. 05/2012

PRESENT: SHRI SUDIP NIYOGI

JUDGE, LABOUR COURT

ANDAMAN & NICOBAR ISLANDS, PORT BLAIR

Shri Abraham Toppo & Shri Tej Kumar Kujur

First Party

-Versus-

Deputy Conservator of Forests, Port Blair

Second Party

Date : 31.03.2015

JUDGEMENT

The following Schedule of Reference was made to this Labour Court by the A & N Administration on 24/08/2012 in exercise of the powers conferred under Sub-Section (1) of Section 10 read with Sub-Section (5) of Section 12 and Sub-Section (2-A) of Section 10 of the Industrial Dispute, Act, 1947 read with the Notification No. LR-1 (59)/55 dated 13th December, 1955 of the Government of India, Ministry of Labour and the Notification No. 144/2008/F.No. 17-2/2007-Labour dated 07/10/2008 of the A & N

The Schedule of Reference

“Whether the action of Deputy Conservator of Forests”, Working Plant Division Forest Department, Port Blair in not extending the benefit of Temporary Status to mazdoors Shri. Abraham Toppo & Shri Tej Kumar Kujur as per the Government of India letter No. 510162/90-Estt. (C) dated 10/09/1993 (Annexure “A”) is legal and justified ? If not what relief the concerned workmen are entitled to” ?

The case of the First Party is that they were appointed as Daily Rated Mazdoors by the Second Party and worked since May, 1991 vide Office Order No. WP / E-2/23 dated-03/06/1991 and continued their work with occasional artificial break during their service period. Both of them worked for more than 240 days in 12 calendar months and therefore, they become continuous service worker. But they were disengaged from service in August, 1993 without following the provisions of 25-F of the Industrial Disputes Act, 1947 by the Second Party.

However, thereafter, the Second Party reinstated them in service with the intervention of the Assistant Conciliation Officer in the year 1994.

It is alleged that Second Party acted whimsically and awarded temporary status to one Shri S. Azad Ali and Shri U. Keshav Rao who are juniors to the First Party. So, the First Party claimed for granting temporary status to them.

In the written objection, the Second Party claimed that the engagement of the First Party was purely conditional and contractual for a particular period and also for a particular work. So, the provisions of Section 25-F is not applicable in their case.

This apart, it is said that they are not also entitled to get temporary status in terms of the scheme following Office Memo No. 51016/2/90-Estt. (C) dated -10/09/1993 from Govt. of India, Ministry of Personnel, P.G. and Pension, Deptt. of Personnel & Training as they did not fulfill the required criteria.

Admittedly, the First Party workmen are still in their service as DRMs under the Second Party and they are now praying for being awarded temporary status by the Second Party. Their allegation is that the services of some DRMs who were engaged later and thus junior to them and that too, for a specific period, subsequently, were extended.

The representative of the First Party workmen also pointed out about the scheme (Govt. of India order dated 10/09/1993) which says about conferring of temporary status on all the casual workers who were in employment on the date of issue of the scheme on fulfilling certain conditions.

It is said on behalf of the Second Party that the First Party workmen are not entitled to get the benefit of the scheme as they did not fulfill the conditions laid down in the scheme. It is also claimed that the said scheme was not an ongoing scheme.

What I find, from the materials on record and submission of the parties that both the First Party workmen were engaged as DRM for a specific period which were specifically mentioned in the office orders and their services were also found to be extended subsequently by making fresh order. Annexure A (1), A (2) and A (3) are the document to show that the First Party workmen were appointed for a specific period and subsequently after the expiry of the said period, their services were extended further.

Now, the contention of First Party workmen is that they were originally appointed in May, 1991 and they were illegally terminated by the Second Party from 01/08/1993. As a result, they were not on the Roll on the relevant date when the Govt. order was issued for granting of Temporary Status and Regularization.

It is also claimed by the First Party workmen that as they were reinstated in their service later, their services should be taken to be continuous since May, 1991 and therefore, their prayer for being

awarded Temporary Status should be allowed.

I have gone through the said scheme of the Govt. which came into force on 01/09/1993. As per the said scheme, Temporary Status would be conferred on the casual labourers who were in employment on the date of the issue of the order and who have continuous service of atleast one year.

Here in this case, both the First Party workmen during their cross examination admitted that they were not in service since August, 1993 to January, 1994. Naturally, both the First Party workmen were not in service under the Second Party on 10/09/1993, which is the date of the scheme, vide Office Memo No. 51016/2/90-Estt. (C) Govt. of India, Ministry of Personnel P.G. & Pension etc. This factual position demolishes their claim for Temporary Status as they failed to fulfill the criteria as set out in the scheme.

That being so the prayer of the First Party workmen cannot be allowed.

Hence it is,

Ordered

That the action of the Second Party in not extending the benefit of Temporary Status to the First Party workmen is legal and justified.

Let a copy of this order be forwarded to the Lt. Governor, A & N Islands, for information and due publication in the Official Gazette.

Directed and corrected by me

Sd/-
(Sudip Niyogi)
Presiding Officer
Labour Court, Port Blair.
By order of Secretary (Labour)

Sd/-
(S.S. Chander Sekhar)
Assistant Secretary (Lab.)

